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Review of “The Expert Witness,” By Arthur Mundo

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this character would profit from an expansion of the use of modern materials which could be made possible by a contraction of the space devoted to historical backgrounds and quotations from the early writers.

PHILIP C. JESSUP.†

THE EXPERT WITNESS. By Arthur L. Mundo. Los Angeles: Parker and Baird, 1938. Pp. xi, 365.

It is difficult to determine what benefit this book provides, either to the profession or to the expert witness. From the fourth paragraph of the preface, it may be surmised that the volume is intended as a guide to the expert witness that he may have "a better understanding of his duties, responsibilities, compensation and other matters connected with the case in court."¹ The bulk of the text contains so much on the technical rules of evidence that it does not seem adapted to aid one who might be called upon to testify once or even occasionally. Perhaps this would not apply to one who makes a profession of appearing in court as an expert witness. The frequent repetition of the statement that the admission of matter discussed is within the discretion of the trial judge, or that the admission of evidence of the type mentioned has been held to be nonprejudicial error and no ground for reversal would not seem to be of assistance to a person seeking to qualify as an expert. The brief portion² on the distinction between fact and opinion is inadequate for the purpose stated.

As a handbook for the practitioner nothing is offered which has not already been presented elsewhere in greater detail and with more analysis to those preparing for their profession. Legal periodical literature abounds in articles on the subject, and the great modern texts on the law of evidence contain scholarly expositions and analyses of the various rules. Early handbooks on expert testimony such as Lawson's³ and the more analytical text by Rogers⁴ preceded the comprehensive modern texts,⁵ but would be superfluous today. The California citations which appear frequently may be of advantage to the practitioner in that state but should be readily available in a California digest. On the whole, the book can offer little to the well prepared lawyer.

Undoubtedly there is a place for a guidebook to professional men who may be called upon to furnish expert opinion as an aid in the advancement of justice. Modern schools of engineering, medicine, and other professional schools include in their curricula courses covering the relation of their professions to the law. The author has presented some matters of value

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1. Also see p. 23: "Be sure, however, that your report goes only to those entitled to receive it—malicious and untruthful statements would not be privileged." Privilege needs explanation.

2. Secs. 1 and 2.

3. *The Law of Expert and Opinion Evidence* (1883).

4. *The Law of Expert Testimony* (1891).

5. 3 Jones, *Commentaries on the Law of Evidence* (2d ed. 1926), treats of the subject of Opinions, pp. 2277-2516, to say nothing of the analytical treatments by Wigmore and others.

for such a course, such as an appraisal of the value and place of expert testimony⁶ and some of the critical comments on the present status of experts and expert testimony. The provisions of the California Code of Civil Procedure⁷ for appointment of expert witnesses by the court,⁸ and the Uniform Act recommended by the Commissioners on Uniform State Laws⁹ are set forth in full. The ethical attitude of the author toward the subject is above reproach. It is to be regretted that the author has not selected and developed completely the materials suitable for his announced purpose.

CHARLES E. CULLEN.†

PAROLE WITH HONOR. By Wilbur La Roe, Jr. Princeton: Princeton University Press, 1939. Pp. 295.

By vocation Mr. La Roe is a lawyer. But his avocations include a number of important community activities in Washington, D. C. Among the latter is his position as chairman of the parole board of the District of Columbia. We may assume then that he is versed in the law, has a genuine interest in his community, and what is more important here, has had a good deal of practical experience in parole administration. These qualifications are sufficient to entitle him to a respectful hearing.

The book is not designed to meet the needs of criminologists already familiar with the history, methods and results of parole. It would not afford them clues to any new methods of investigation nor new data from basic research problems in the field. Criminologists would be interested, however, in the theory and practice of parole systems as represented here. But Mr. La Roe is addressing a wider audience, the general public, the man in the street, and his work must be reviewed with that in mind. For the most part his data, chapter headings, use of concrete case histories, and language are pitched on a level consonant with his hoped-for audience.

One might say with the author, then, that the primary purpose of the book is "to give the average layman a better understanding of parole." To accomplish this purpose Mr. La Roe attempts to do several things: 1. to show that many adverse but widely held opinions about parole have no factual basis, 2. to give a simple, concrete picture, with illustrative case records, of how the parole system works, and, 3. to point out the defects in the laws and in the administration of parole which cause it to fall short of its potentialities and thus engender legitimate criticism.

First of all he takes up one by one some of the erroneous opinions about parole and attempts to clear them away. Space permits mere mention of some of them: that parole is a form of leniency and sentimentalism; that it floods the community with dangerous criminals; that most parolees are failures; that parole boards are sentimentalists, rely chiefly on guesswork,

6. Pp. 14-35; 324-332.

7. P. 15.

8. Pp. 15-20.

9. P. 329.

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